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PATENT ASSIGNMENT

This Patent Assignment ("Assignment") is made as of August 28, 2003 by Vitesse Semiconductor Corporation, a Delaware corporation having a place of business at 741 Calle Plano Camarillo, California 93012, United States of America ("Assignor"), to Avanex Corporation, a Delaware corporation having a place of business at 40919 Encyclopedia Circle, Fremont, California 94538, United States of America ("Assignee").

RECITALS

- A. Assignor and Assignee have entered into an Asset Purchase Agreement dated as of August 21, 2003 (the "Purchase Agreement").
- B. Assignor owns the patent(s) issued by the United States Patent and Trademark Office and certain foreign patent and trademark offices, as well as patent applications filed with the United States Patent and Trademark Office and certain foreign patent and trademark offices, as set forth on Exhibit A hereto (the "Patents").
- C. Pursuant to the Purchase Agreement, Assignor desires to assign to Assignee all of Assignor's right, title and interest in and to the Patents.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and agreements contained in the Purchase Agreement and the covenants and agreements in this Assignment and to induce Assignee to consummate the transactions contemplated by the Purchase Agreement, Assignor agrees as follows:

1. Assignor does hereby irrevocably sell, transfer, convey, assign and deliver to Assignee all of Assignor's right, title and interest in and to the Patents (and regarding Patents that are patent applications, any patents that may issue therefrom), including any foreign counterparts, divisionals, continuations in whole or in part, reexaminations, reissues or extensions thereof, and the right to claim priority to any of the preceding, the same to be held by Assignee for Assignee's own use and enjoyment, and for the use and enjoyment of Assignee's successors, assigns and other legal representatives, as fully and entirely as the same would have been held and enjoyed by Assignor if this Assignment and sale had not been made; together with all claims for damages by reason of past infringements of the Patents, along with the right to sue for and collect such damages for the use and benefit of Assignee and its successors, assigns and other legal representatives.

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2. Assignor hereby authorizes and requests the Commissioner of Patents and Trademarks of the United States, and any officer of any country or countries foreign to the United States, whose duty it is to issue patents or other evidence or forms of intellectual property protection or applications as aforesaid, to issue the same to Assignee and its successors, assigns and other legal representatives in accordance with the terms of this instrument.

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